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*The Police Power of the State and Decisions thereon as Illustrating the Development and Value of Case Law.* By ALFRED RUSSELL, LL.D. (Chicago : Callaghan and Co. 1900. Pp. 204.)

FIFTEEN years ago, Professor Tiedeman, of the University of Missouri, published a bulky volume on the *Limitations of Police Power in the United States*, with the aim of showing that legislative absolutism was under stronger restraint here than in any other country. Mr. Russell has taken up the subject from another point of view. He makes use of the history of our dealings with the police power as illustrating the efficiency of the American courts in determining the limits of legislation by the effect of its opinions, no less than by its judgments. To set aside a statute as an unconstitutional exercise of the police power is one thing : to justify the action by a well-reasoned argument is another, and such an argument, coming from the highest possible source of human authority, carries a double weight. Statutes, however, are seldom thus set aside. The judiciary ordinarily is found supporting the action of the legislative department.

Mr. Russell is no friend of codification. He quotes with approval these observations made by Lord Esher in 1897, when retiring from the bench : " The law of England is not a science ; it is a practical application of the rules of right and wrong to the particular case before the court. And the canon of law is that that rule should be adopted and applied to the case which people of honor and candor and fairness in such a transaction would apply to each other. Now, if that be so, if any supposed rule of law is put forward which would prevent the rule of right being applied, the supposed rule of law must be wrong." It is from the records of this practical application of the rules of right and wrong to particular cases that Mr. Russell has made up his book. It is a chapter of judicial history.

The evolution of the doctrine of freedom of contract is sketched at some length. It is here that American courts have, of late years, pushed their power farthest, in setting aside acts of legislation. As applying to the relations of labor to capital and of organized labor to unorganized labor, it is a subject of deep interest to the economist, and this treatise puts the present state of the law before him in a convenient form.

The Fourteenth Amendment to the Constitution of the United States necessarily claims also a large place. It has reconstituted the relations of the states to the United States in respect to the police power, and extended enormously the sweep of federal jurisdiction. This the author is disposed to welcome, in view of the fact that, according to his estimate (p. 189), nine-tenths of the statutes passed by the states in 1899 were enacted in the exercise of the police power, and in support of the theories of the populist against the interest of the property owner.

Mr. Russell writes in a clear and scholarly way, and has selected his authorities judiciously. His general conclusions are these : " What-

ever is contrary to public policy or inimical to the public interests, is subject to the police power of the State and is within legislative control. And, in the exercise of such power, the Legislature is vested with a large discretion, which, if exercised *bona fide* for the protection of the public, is beyond the reach of judicial inquiry."

SIMEON E. BALDWIN.

While the question of a monographic history of the United States, discussed by the American Historical Association at its last meeting, is still undecided, a monographic history of France, of very nearly the plan and scope proposed for the American undertaking, has begun to appear under the general editorship of Ernest Lavisse (*Histoire de France depuis les Origines jusqu'à la Révolution*. Paris: Hachette). The list of collaborators reaches thirteen names, all of approved scholarship and some of them scholars of the first rank. The volumes which have already appeared give us every reason to hope that we are about to have, what has been long so much desired, a history of France, not too detailed but on a plan broad enough to include all departments of the national life and fully abreast with the best results of modern investigation. Such a work will be warmly welcomed, not merely in France but throughout the reading world.

The plan provides for eight volumes of something more than 800 pages each, which will appear in half volumes, and of these four have already been published: Vol. I., Pt. II., on Gaul before the Franks by Professor G. Bloch of the University of Lyons, and Vol. II., Pt. II. and the whole of Vol. III., covering the history from the beginning of the continuous Capetian period to 1328, the first two half volumes to the death of Louis VIII. by Luchaire, and the third by Langlois. The price of each half volume is six francs. The general history of civilization—institutional and social history are to be covered as well as political history. Not quite so much attention is given to bibliography as in the *Histoire Générale* of Lavisse and Rambaud, but the best monographic studies are noted with some critical remarks, and notes of a supplementary sort, that add detail to the text or give reasons and evidence for conclusions, are more numerous than in the *Histoire Générale*.

Vol. I., Pt. II. opens with a brief account of prehistoric France. It is slightly more full on independent Gaul, and devotes three quarters of the volume to Gaul under the Romans. As would naturally be expected the political history of this period receives less attention than the history of civilization, and the treatment of the Roman government is especially detailed, particularly that of the local government and of the "city." Taken as a monograph by itself, independent of its relation to the rest of the series, the book would form a very useful manual on Roman Gaul, on the organization and government of that province through which Roman institutions were destined to the most permanent influence on later Europe. Searching reviews by specialists have discovered very few errors